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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/312,992	05/17/1999	SCOTT E. JOHNSTON		3297

7590 11/22/2002

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 11/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

GN

Office Action Summary

Application No.
09/312,992

Applicant(s)
Johnston

Examiner
James F. Hook

Art Unit
3752



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. In response to the decision by the Board of Patent Appeals and Interferences mailed on 9 October 2002, this application has been reconsidered. Additional prior art has come to light necessitating the new grounds of rejection set forth below. Prosecution on this application is hereby reopened.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Reed. The patent to Reed discloses, as seen in figures 1 and 2, a tubular object which is a pipe comprising an elongated strip of ductile material 4, such as metal, that is formed into joined adjacent helical convolutions having a diameter of 20 feet, thereby meeting the language requiring a diameter larger than 15 feet, where the strip material is smooth, thereby meeting the recited structure of claim 2.

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4. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald.

The patent to McDonald discloses, as seen in figures 1 and 2, a tubular object which is a pipe comprising an elongated strip of ductile material 62, such as metal, that is formed into joined adjacent helical convolutions having a diameter of approximately 21 feet, where the patent discloses a circumference of 66 feet which upon dividing the circumference by pi results in a diameter of approximately 21 feet, thereby meeting the language requiring a diameter larger than 15 feet, where the strip material is smooth or profiled, thereby meeting the recited structure of claim 2, and the convolutions are welded at the seams thereby meeting the limitations of claim 4.

5. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Steuber.

The patent to Steuber discloses, as seen in figures 2 and 3, a tubular object which is a pipe comprising an elongated strip of ductile material 12a, such as metal, that is formed into joined adjacent helical convolutions having a diameter of 31 feet thereby meeting the language requiring a diameter larger than 15 feet, where the strip material is smooth, thereby meeting the recited structure of claim 2, and the convolutions are welded at the seams thereby meeting the limitations of claim 4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed, McDonald, or Steuber in view of the Handbook of Steel Drainage and Construction Products (from now on referred to as the "Handbook"). The patents to Reed, McDonald, and Steuber disclose all of the recited structure with the exception of clearly disclosing an increase in dimensional proportions as pipe size is increased. The Handbook clearly discloses on page 40 that dimensional proportions such as corrugations are increased as pipe diameter sizes are increased in spirally formed pipe. It would have been obvious to modify dimensional proportions of the pipes in Reed, McDonald, and Steuber to be increased as pipe diameter increases as suggested by the Handbook, as such would be beneficial to use appropriate dimensions for the size of the pipe being made to provide adequate strength and reduce costs.

8. Claims 1, 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over PRD Cortec Housing Manufacturing System (from now on referred to as Cortec) in view of McFatter. The reference to Cortec discloses the recited spirally formed pipe, where houses or building structures are created as well as pipes for irrigation, drainage, and sewers, which can be formed by a continuous process by a spiral mill to produce 15 foot diameter pipes, where the walls formed are corrugated meeting the structure of claim 2, and lock seams are disclosed thereby meeting the limitation of claim 4. The reference to Cortec discloses all of the recited structure with the exception of the diameter of the pipe being larger than 15 feet. The patent to McFatter

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discloses an apparatus that is used to create a spirally formed tubular section in a continuous process having a diameter of 31 feet. It would have been obvious to one skilled in the art to modify the pipe made in Cortec to have a diameter larger than 15 feet as suggested by McFatter if a larger diameter pipe is needed and simply to increase useful volume.

9. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cortec in view of the Handbook of Steel. The reference to Cortec above discloses all of the recited structure including a pipe that has a diameter larger than 144 inches, however, does not disclose reshaping the pipe into arch shapes, or increasing dimensional proportions of the pipe as pipe size is increased. The Handbook further discloses that pipes used for culverts and drainage can be reshaped into arch shapes if needed. It would have been obvious to one skilled in the art to modify the cylindrically shaped drainage pipe, sewer pipes, or culverts of Cortec by reshaping them into arch shapes as needed for a particular application as suggested by the Handbook.

10. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Handbook of Steel in view of Cortec. The Handbook reference discloses all of the recited structure set forth above with the exception of explicitly stating that spiral formed pipes can exceed 144 inches in diameter before reshaping into arches. It would have been obvious to one skilled in the art to modify the dimensions of the pipe used for reshaping in the Handbook by using a 15 foot diameter spirally formed pipe as suggested by Cortec, to meet applications requiring larger diameter pipes.


11. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Handbook of Steel in view of McFatter. The Handbook reference discloses all of the recited structure with the

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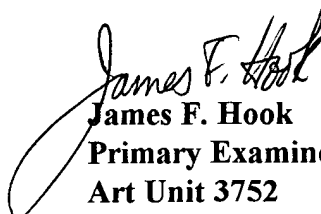
exception of explicitly reciting that spiral formed pipes can have diameters larger than 15 feet. In order to provide more useful volume, it would have been obvious to one skilled in the art to make spirally formed pipes having diameters larger than 15 feet as suggested by McFatter which teaches that pipes can be formed by spiral joining methods that can exceed 15 feet in diameter to meet the needs of the user.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Howell and Campbell disclosing state of the art spirally formed pipes and methods of making them.
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.


RICHARD A. BERTSCH
APPROVED
TECHNOLOGY CENTER 3700

J. Hook
November 20, 2002


James F. Hook
Primary Examiner
Art Unit 3752